

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HEATHER L. WELKER,

Defendant.

CR 18-06-H-BMM-JTJ

**AMENDED FINDINGS AND  
RECOMMENDATIONS**

**I. Synopsis**

Defendant Heather L. Welker (Welker) has been accused of violating the conditions of her supervised release. Welker admitted all of the alleged violations. Welker's supervised release should be revoked. Welker should be placed in custody until 12:00 p.m. (noon) on May 19, 2023, followed by supervised release until June 11, 2023. Welker's supervised release conditions should be amended to include a condition requiring Welker to be employed by May 22, 2023.

**II. Status**

Welker pleaded guilty to four counts of making a False Statement to a Federally Licensed Firearms Dealer. (Doc. 2-2). United States District Court Judge Kim R. Gibson sentenced Welker to 5 years of probation. *Id.* Welker's

term of probation was revoked on April 5, 2018. (Doc. 65 at 2). Welker was sentenced to 9 months of custody followed by 36 months of supervised release.

*Id.* Welker's current term of supervised release began on May 13, 2022. *Id.*

### **Petition**

The United States Probation Office filed a Petition on April 10, 2023, requesting that the Court revoke Welker's supervised release. (Doc. 65). The Petition alleged that Welker had violated the conditions of her supervised release: 1) by failing to report for substance abuse testing on two separate occasions; 2) by failing to participate in substance abuse testing; 3) by using methamphetamine; and 4) by using xanax.

### **Initial appearance**

Welker appeared before the undersigned for her initial appearance on May 16, 2023. Welker was represented by counsel. Welker stated that she had read the petition and that she understood the allegations. Welker waived her right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

The Court conducted a revocation hearing on May 16, 2023. Welker admitted that she had violated the conditions of his supervised release: 1) by

failing to report for substance abuse testing on two separate occasions; 2) by failing to participate in substance abuse testing; 3) by using methamphetamine; and 4) by using xanax. The violations are serious and warrant revocation of Welker's supervised release.

Welker's violations are Grade C violations. Welker's criminal history category is I. Welker's underlying offenses are Class C felonies. Welker could be incarcerated for up to 24 months. Welker could be ordered to remain on supervised release for up to 13 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

### **III. Analysis**

Welker's supervised release should be revoked. Welker should be placed in custody until 12:00 p.m. (noon) on May 19, 2023, followed by supervised release until June 11, 2023. Welker's supervised release conditions should amended to include a condition requiring Welker to be employed by May 22, 2023. This sentence is sufficient but not greater than necessary.

### **IV. Conclusion**

The Court informed Welker that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Welker of her right to object to these Findings and Recommendations within 14

days of their issuance. The Court explained to Welker that Judge Morris would consider a timely objection before making a final determination on whether to revoke her supervised release and what, if any, sanction to impose. She waived those rights. (Doc. 68) The Court **FINDS:**

Heather L. Welker violated the conditions of her supervised release: by failing to report for substance abuse testing on two separate occasions; by failing to participate in substance abuse testing; by using methamphetamine; and by using xanax.

The Court **RECOMMENDS:**

The District Court should revoke Welker's supervised release and commit Welker to the custody of the United States Bureau of Prisons until 12:00 p.m. (noon) on May 19, 2023, followed by supervised release until June 11, 2023. Welker's supervised release conditions should amended to include a condition requiring Welker to be employed by May 22, 2023.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file

written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 17th day of May, 2023.



John Johnston  
United States Magistrate Judge